

Application No.: 10/600,096

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Docket No.: 146712010300

REMARKS

The Applicant's respectfully request reconsideration of all pending claims.

Claims 1-5, 8, and 16-19 were pending in the present application Claims 6, 7, 9-15 and 20-38 were withdrawn from consideration. By virtue of this response, claims 1 and 16 have been amended, claims 5, 8, 18, and 19 have been cancelled, and claims 39 to 41 have been added. Accordingly, claims 1-4, 16, 17, and 39-41 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Applicants respectfully point out that claims 6, 37 and 38 were not mentioned in the Office Action of December 10, 2004. Based on the Examiner's other comments, Applicants assume that the Examiner has included claims 6, 37 and 38 in the withdrawn claims.

Election/Restriction

The Office Action of December 10, 2004 states that, "[a]pplicant's election of Species A, fig. 2, claims 1-5, 8, and 16-19 in the reply filed on 12/03/2004 (interview summary) is acknowledged." The Office Action further asserts that, "[b]ecause applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse. (MPEP §813.03(a))."

The Examiner is incorrectly treating an election of species requirement as a restriction requirement.

As noted in Applicant's response of October 14, 2004, the Examiner made an election of species requirement, not a restriction requirement. The Examiner never restricted the claims to specific groups, and never provided a basis supporting the restriction requirement.

Election of species requirement is distinct from a restriction requirement. Election of species relates to the claim limitation that Applicants would first like examined. Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.141.

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Claim Rejections – 35 U.S.C. § 102(b)

Claims 1-5, 8, and 16-19 stand rejected as being anticipated by U.S. Patent No. 5,623,382 to Moritan et al. ("Moritan"). In particular, the Office Action states:

"Regarding claim 1, Moritan et al. (see fig. 5) discloses a fluid dynamic bearing motor comprising: a rotor; a stationary sleeve disposed about a portion of the rotor and mounted to a base (212); a stator mounted to the stationary sleeve, a fluid dynamic bearing between the rotor and stationary sleeve; and a limiter (278) for restricting axial movement of the rotor with respect to the stationary sleeve." Office Action of December 10, 2004, page 2.

Applicants respectfully disagree. Independent claims 1 and 16, from which pending claims 2-4 and 17 depend, has been amended to recite a "limiter pin *extending from the base* for restricting axial movement of the rotor with respect to the stationary sleeve." Moritan does not show or describe a limiter pin extending from the base for restricting axial movement of the rotor with respect to the stationary sleeve.

In contrast, Moritan (particularly Fig. 5, element 278) shows a *rotor locking mechanism*. This locking mechanism is connected from a hole in the sleeve metal 275 to a locking groove in the shaft of the rotor. See col. 10, lines 28-45.

In order to anticipate, a reference must teach every aspect of the claimed invention either explicitly or impliedly. MPEP §706.02. In this Amendment, Applicants have amended independent claims 1 and 16, from which claims 2-4, 17, and 39-41 depend. Because the amended claims 1 and 16 now contain at least one aspect that is not shown or described in Moritan, the objection under 35 U.S.C. §102(b) that claims 1-5, 8, and 16-19 are anticipated by Moritan has become moot. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(b).

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 146712010300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 12, 2005

Respectfully submitted,

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